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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,651	11/24/2003	Christian Eric Schrock	MSFT121825	4659

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EXAMINER	
AUGUSTIN, EVENS J	

ART UNIT	PAPER NUMBER
3621	

MAIL DATE	DELIVERY MODE
12/17/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/720,651	SCHROCK ET AL.	
	Examiner	Art Unit	
	EVENS J. AUGUSTIN	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *June 20, 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-27 and 38-42* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-27 and 38-42* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This is in response to the amendment sent on June 20th, 2008. Examiner has found arguments in the amendment to be persuasive. Therefore, a new non-final office action is in order. Claims 1-27 and 38-42 are pending and have been examined.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-27 and 38-42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shteyn et al. (U.S 20040057348) ("Shteyn"), in view of Novelli et al. (U.S. 6915176) ("Novelli") and in further view of Georges (U.S 20030131715) ("Georges").

4. As per claims 1-27 and 38-42, Shteyn discloses an invention comprising of the following:

   A. ("selecting a first track referenced by the globally relevant playlist, the first track being associated with a first global track identifier") –Selecting a song to render, the song being from a playlist (abstract, par. 14, 25, 29, 31), based on the identification of the content (par. 6, 9, 23, 27)

B. ("determining whether the first track is currently locally accessible to the computing device according to a global the first global track identifier") – Determining whether the track is available locally (par. 23-25)

C. ("if, according to the previous determination, tile first track is currently accessible to the computing device, playing the first track on the computing device") – Render or play the song that was found or matched in the local device (abstract, par. 14, 25, 29, 31)

D. ("if, according to the previous determination, the first track is not currently accessible to the computing device, determining whether the first track may be obtained from a remote location, and if so: obtaining tile first track from the remote location according to the first global track identifier; playing the first track on the computing device.") – Songs that are absent from local device "not locally accessible to the computing device" are downloaded (inherently from a remote device) and added to the local device (par. 33), for subsequent rendering/playing.

5. Shtyen did not explicitly describe a method/system in which the track identifier is a function of the track. However, Novelli describes an invention which involves communicating a music sample to a friend, or forwarding a playlist to a friend(C4, L1-2). According to Novelli, tracks may be identified by their ID3 tag or by a disk and track identifier or other information known to the PC. Other reference media, for example, foreign media may require manual input from the user in order to create an unique identifier for the track (C6, L49-53).

6. Therefore, it would have been obvious for one of ordinary skill in the art at the time of the applicant's invention to construct a method/system in which the track identifier is a function of the track. According to Novelli, a track identifier can be used for purposes of later retrieval of information related to the track of music, and/or associated with a location on a particular album, CD or other media (C4, L49-56). An identifier as a function of the track would create a more unique identifier that would possible to correlate the identifier with that particular track.

7. Shtyen did not explicitly describe a method/system in which a track format was specified. However, Georges describes an invention in which different format is used (par. 103). Additionally, specifying format is well known in the art (see: US 6338044, C6, L35-40)
8. Therefore, it would have been obvious for one of ordinary skill in the art at the time of the applicant's invention to construct a system that would employ a method/system that specifies the track format. It would have been obvious to do because it would provide a range of size/performance options to users and system architects.

Conclusion

9. *Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that if the applicant is preparing to respond, to consider fully the entire references as*

potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

10. In determining patentability of an invention over the prior art, the USPTO has considered all claimed limitations, and interpreted as broadly as their terms reasonably allow. Additionally, all words in the claims have been considered in judging the patentability of the claims against the prior art.
11. It should also be noted that, in the office action that:
    A. Items in the rejection that are in quotation marks are claimed language/limitations.
    B. Passages in prior art references may be mere rephrasing/rewording of claimed limitations, but the implicit/explicit meaning of the references vis-à-vis the claimed limitation remains intact.
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EVENS J. AUGUSTIN whose telephone number is 571-272-6860. The examiner can normally be reached on 10am - 6pm M-F.
13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571)272-6779.

/Evens J. Augustin/
Evens J. Augustin
December 17, 2008
Art Unit 3621